

REMARKS

The Office Action dated November 4, 2003, has been received and carefully noted. The above amendments and the following remarks are submitted as a full and complete response thereto. Claims 27 and 28 have been allowed.

By this amendment, claim 1 has been amended and claim 43 added. No new matter has been added. Claims 1, 4-24, 32, 35, 37-40, and 43 are pending and respectfully submitted for consideration.

Claim 8 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Applicants have amended claim 1 to provide antecedent basis for the elements recited in claim 8. The Applicants submit that all claims are in compliance with U.S. patent practice.

The Applicants wish to thank the Examiner for allowing claims 27 and 28 and indicating allowable subject matter in claims 9-24, 32, 35 and 37-40. The Applicants submit, however, that claim 9 is independent and does not depend from claim 1. Therefore, the Applicants respectfully request that claims 9-24, 32, 35 and 37-40 be indicated as allowed.

The Applicants also wish to thank the Examiner for the courtesies extended to the Applicants' representative during the telephonic interview conducted March 11, 2004. The points discussed during the telephonic interview are incorporated herein. Claims 1 and 8-9 were discussed during the telephonic interview. During the interview, the Examiner indicated that the proposed claim amendments appear to distinguish the

invention recited in the claims from the cited prior art. Accordingly, the Applicants submit amended claim 1 as discussed during the interview.

Claims 1 and 4-8 are rejected under 35 U.S.C. § 102(b) as being anticipated by Strassheimer (U.S. Patent No. 4,785,948). The Applicants respectfully traverse the rejection and submit that claim 1 recites subject matter that is not disclosed or suggested by Strassheimer. Claims 4-8 depend from claim 1.

Claim 1 recites that the preform has a variable thickness and is cut on an upper anterior part thereof to form an opening that leaves a closed upper posterior part. In contrast, Strassheimer discloses an opening 12 across the entire preform 10, as shown in at least Fig. 1. As such, Strassheimer fails to disclose at least the feature of a preform having an opening on an upper anterior part thereof leaving a closed upper posterior part.

According to U.S. patent practice, a reference must teach every element of a claim in order to properly anticipate the claim under 35 U.S.C. §102. In addition, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628,631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "Every element of the claimed invention must be arranged as in the claim . . . the identical invention, specifically, [t]he identical invention must be shown in as complete detail as contained in the claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236 (Fed. Cir. 1989) (emphasis added). The Applicants respectfully submit that Strassheimer does not disclose or suggest the features of the invention as claimed in

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claim 1. Accordingly, claim 1 is not anticipated by or rendered obvious in view of Strassheimer. As claims 4-8 and 43 depend from allowable claim 1, the Applicants submit that these claims are allowable at least for this reason. Accordingly, the Applicants respectfully request withdrawal of the rejection and allowance of claims 1, 4-24, 32, 35, 37-40, and 43 and the prompt issuance of a Notice of Allowability.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants respectfully petitions for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, referencing Attorney Docket. No. 024118-00012.

Respectfully submitted,



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Enclosure: Petition for Extension of Time (two-months)
TECH/228686.1

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